

**DEPARTMENT OF STATE REVENUE**  
**LETTER OF FINDINGS NUMBER: 00-0279 AGI**  
**ADJUSTED GROSS INCOME TAX**  
**FOR TAX PERIODS: 1997-1999**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**Issues**

**Adjusted Gross Income Tax: Imposition**

**Authority:** IC 6-3-2-1 (a), IC 6-3-2-2 (a), Webster's II New Riverside University Dictionary, 1988, page 858.

Taxpayer protests the imposition of the adjusted gross income tax.

**Statement of Facts**

The taxpayers protested an assessment of adjusted gross income tax for the years 1997-1999 on partnership income. A hearing was held with Taxpayer's representative. More facts will be provided as necessary.

**Adjusted Gross Income Tax: Imposition**

**Discussion**

The taxpayers are a married couple. The wife is a limited partner in an Indiana limited partnership. The taxpayers are residents of New Jersey. The Indiana Department of Revenue assessed adjusted gross income tax on the wife's earnings from the Indiana limited partnership. The taxpayers protested this assessment. The taxpayers contend that they do not owe Indiana adjusted gross income tax on the wife's earnings from the

Indiana limited partnership because she is a resident of New Jersey and does not personally do business in Indiana.

The Indiana Department of Revenue imposed adjusted gross income tax on the taxpayers pursuant to the following provisions of IC 6-3-2-1 (a)

Each taxable year, a tax at the rate of three and four-tenths percent (3.4%) of adjusted gross income is imposed. . . on that part of the adjusted gross income derived from sources within Indiana of every nonresident person.

“Income derived from sources within Indiana” is defined by the following provisions of IC 6-3-2-2 (a)

With regard to corporations and nonresident persons, ‘adjusted gross income derived from sources within Indiana’, for the purposes of this article, shall mean and include:. . . (2) income from doing business in this state:

A partnership is “a contract entered into by two or more persons in which each agrees to furnish a part of the capital and labor for a business enterprise and by which each shares in some fixed proportion in profits and losses.” Webster’s II New Riverside University Dictionary, 1988, page 858. The Indiana limited partnership was organized for the purpose of making profits. This is a business purpose. The wife received her interest in the partnership in exchange for her contribution of corporate stock. The partnership continues to hold these same shares of stock. The partnership has also made investments in various corporations and partnerships and loans to corporations owned by the family. The partnership is managed by the wife’s mother who lives in Indiana. The limited partnership is organized under the laws of Indiana. The partnership clearly has an Indiana business situs. The wife received a distributive share of partnership income from the Indiana limited partnership. This was clearly income from an Indiana source as defined in the statute. The taxpayers are not Indiana residents. Therefore they fall into the nonresident status. The distributive share of profits of an Indiana limited partnership qualifies as taxable income from a source within Indiana. The taxpayers owe Indiana adjusted gross income tax on any income non Indiana residents received from an Indiana limited partnership.

### **Finding**

Taxpayer’s protest is denied.